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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,266	07/05/2006	Robert Francis Rickards	RFR-2	9210
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01/05/2009				
EXAMINER				
DUMAS, NKEISHA J				
ART UNIT		PAPER NUMBER		
3632				
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01/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/585,266

Applicant(s)

RICKARDS, ROBERT FRANCIS

Examiner

NKEISHA J. DUMAS

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-5 and 8-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 3-5 and 8-11 is/are rejected.
7) ☒ Claim(s) 4 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SI-08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. The following correspondence is a Final Office Action for application no. 10/585,266 for a BOOK READING AID, filed on 7/5/2006. This correspondence is in reply to applicant's response filed on 9/4/2008. Claims 1, 3-5 and 8-11 are pending.

Claim Objections

2. Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 1 contains the same limitations where the support leg can be angularly adjusted about a rotational axis which is substantially parallel to the longitudinal direction of the elongate member.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 3-5 and 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 4 recites the limitation "said pivotal connection means" therein. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 5 recites the limitation "said pivotal connection means" therein. There is insufficient antecedent basis for this limitation in the claim. In addition, claim 5 is

dependent upon a claim that contains purely functional limitations and is of improper independent form. Thus, it is unclear what constitutes the limitations of claim 5.

7. Regarding claim 1, there is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claims unclear. The preamble in claim 1 clearly indicates that a subcombination is being claimed, e.g., "a device for **facilitating the reading of a book....**" This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a device," the book being only functionally recited. This presents no problem as long as the body of the claim also refers to the functionally, such as, "for attachment to said book."

The problem arises when the book is positively recited within the body of the claim, such as, "with the lower edge of the book resting on a surface." There is an inconsistency within the claim; the preamble indicates subcombination, while in at least one instance in the body of the claim there is a positive recital of structure indicating that the combination of a device and a book are being claimed. The examiner cannot be sure if applicant's intent is to claim merely the device or the device in combination with the book. Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the device alone or the combination of the device and the book. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the combination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble

should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination. Claims 3-5 and 8-11 are rejected for the same reasons as dependent on claim 1.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

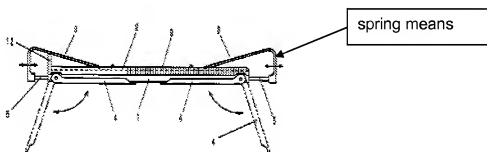
9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1, 3-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over lizuka (W.O. 03/073888).

Regarding claims 1, 4 and 5, as best understood, lizuka teaches a device (Figs. 1-4) including an elongate member (1) and two end-pieces (3) which include finger portions directed inwardly towards each other at opposite ends of the elongate member, wherein each of said end-pieces is provided with spring means (see figure below), and a support leg (10) projecting from the elongate member with the lower edge of the book

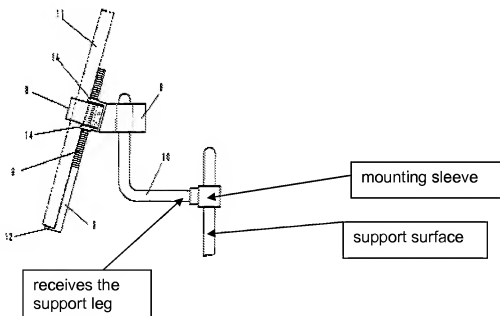
resting on a surface and with the support leg extending between the elongate member and said surface (Fig. 4), in which the elongate member includes a platform (as shown in Fig. 2) which projects at opposite sides of said elongate member, and said support leg is of elongate shape with one end joined to the elongate member by means of a slider (2) which is slidably engaged with the elongate member, and the support leg is rotatably connected to the slider and is pivotally connected to the slider, but does not specifically teach that the length of the support leg is shorter than the length of the elongate member. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the invention of lizuka where the length of the support leg is shorter than the length of the elongate member because discovering an optimum value of a result effective variable involves only routine skill in the art.



Regarding claim 3, as best understood, lizuka teaches the device of claim 1, in which the elongate member includes inner and outer telescopically-engaged elements (5) which carry the respective end pieces and the support leg is slidably engaged with the outer telescopically-engaged element (via member 2).

Regarding claim 8, Iizuka teaches the device of claim 1, but does not teach that the support leg comprises a plurality of telescopically-engaged sections. It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to construct the support leg of Iizuka into separate parts comprising a plurality of telescopically-engaged sections since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Further, the provision of adjustability, where needed, involves only routine skill in the art.

Regarding claim 9, Iizuka teaches the device of claim 1, including a mounting sleeve (see figure below) which is provided with a means for releasably attaching the sleeve to a surface.



Regarding claim 10, Iizuka teaches the device of claim 1, in which the support leg has an opposite end from the elongate element, but does not teach that the opposite

end of the support leg is formed of or coated with a friction material. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the invention of lizuka where the opposite end of the support leg is formed of or coated with a friction material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding claim 11, lizuka teaches the device of claim 1, in which the end pieces are formed as separate components, but do not teach that the end pieces have pivotal connections with the elongate member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the device of lizuka where the end pieces have pivotal connections with the elongate member since the provision of adjustability, where needed, involves only routine skill in the art.

Response to Arguments

11. Applicant's arguments with respect to claims 1, 3-5 and 8-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NKEISHA J. DUMAS whose telephone number is (571)272-5781. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Nkeisha J. Dumas/
Examiner, Art Unit 3632

December 30, 2008

/J. ALLEN SHRIVER II/
Supervisory Patent Examiner, Art Unit 3632